



LEGAL MONITORING OF THE SERBIAN MEDIA SCENE

Report for November 2015



SERBIAN MEDIA SCENE IN NOVEMBER 2015

On the occasion of marking the International Day to End Impunity for Crimes against Journalists, the Independent Association of Journalists of Serbia (NUNS) has issued a press release saying that, according to information obtained by that association, 23 attacks against journalists were recorded in 2014, of which 12 cases of threats against physical security. The year 2015 saw 28 attacks, including nine physical attacks and 16 verbal threats. In three cases journalist property was attacked.

Blic journalist Milica Jovanovic was attacked in November, in the premises of the factory "Porecje" from Vucje, while she was making, together with a colleague, a reportage about the situation in that soon-to-be bankrupt company. The attacker was the head of the plant Goran Zivkovic. According Jovanovic's testimony, Zivkovic grabbed her neck, pulled her hand and threatened to kill her. He also tried to take her camera and break it, after she asked him if the workers had received their salaries. Zivkovic's colleague Nebojsa Videnovic, who had allowed the reportage to be filmed in the factory, said he was surprised by the incident and that he regretted it happened. He also said that Zivkovic told him the incident happened because he was "nervous" and said he was going to be reprimanded. Milica Ivanovic pressed criminal charges against the attacker. Also in November, a reporter of the daily "Blic" filmed with his mobile phone two members of the communal police removing a makeshift stand near the Zeleni Venac green market in Belgrade. The two policemen asked him for his journalist card and told him to call his editor to confirm his capacity. It is true that, according to the Law on the Communal Police, communal policemen are authorized to make identity checks (only) for persons whose conduct or actions constitute a violation of regulations from the scope of action of the communal police (while being required to inform such persons about the reasons for the check). It seems that, in the above-described case, there were no grounds for the communal policemen to check the identity of the reporter, or any other person filming the removal of a makeshift stand, since it didn't obstruct the police action or violated communal regulations in any manner whatsoever. We remind that even the Police Trade Union said, back in January 2015 in relation to similar incidents, that policemen, including communal policemen, are public officers and that their work is public and hence filming is allowed, if the person that is filming doesn't obstruct the police in its work.

In the Report we also analyzed a case that also happened in November, when Bozidar Filipovic, a tenant from Trnska Street in Vracar (Belgrade), forcibly kept in his apartment, for around 15 minutes, the reporter of "Politika" Danijela Vukosavljevic and photographer Dragoslav Zarkovic. They were investigating a bomb that exploded near the entrance of Filipovic's apartment building. He invited them to come to his apartment, saying he was unable to talk to them being in house arrest and wearing an electronic bracelet. When the journalists entered his apartment, he first told them they will never get out of, since he was going to "fill them with lead". He also told them he had "dug four graves in front of the house", calling them "vultures". Filipovic allegedly wears an electronic bracelet to have his movements monitored after an earlier attack against a police officer. The police pressed criminal charges, but details as to which crime Filipovic has been indicted for are unknown.

Another two cases we analyzed in the Report are particularly relevant for freedom of expression. In the first one, two unknown assailants attacked Miroslava Malenovic, member of the Anti-Corruption Council, inflicting on her injuries to the head and face. The attack happened immediately before the Council was supposed to release a report on shady money transfers related to public entity advertising in the media. Since an associate of the Anti-Corruption Council Ivan Ninic (who was investigating the same topic) was also attacked three months ago, the Report of the Council might well have been the reason for both attacks. The perpetrators of the attack against Ninic, which happened last August, remain unknown. In the second case, the promotion of the book "Vucic and Censorship", which was supposed to be held in Nis, has been cancelled. The author of the book and until recently the Editor of Vecernje Novosti, is Srdjan Skoro (known for being dismissed as Editor in Vecernje Novosti after having criticized the composition of the new Vucic-led government in the morning news of RTS in 2014). The book promotion was organized by the editor of the Juzne vesti web portal Predrag Blagojevic and it was supposed to include Dragoljub Zarkovic from the daily "Danas" and Olja Beckovic, the presenter and author of the now defunct talk show Utisak nedelje (Impressions of the Week) on TV B92. According to Blagojevic, the Director of the Library (where the promotion was to be held) Sonja Sukovic confirmed to him the time slot and other details of the arrangement (the premises were to be used free of charge). However, after he explained to her which book and guests were going to be involved, she called him on the telephone shortly and told him that the Library "didn't want any books with political connotation", since "the book does criticize the Prime Minister after all" and "she has to take care of her employees", reminding that "they all receive salaries from the budget". In an interview for "Danas", Sukovic said that she was "never asked by anyone whatsoever" to allow the promotion to be held in the Library and that such promotion "was never scheduled to take place". She accused the organizers of "cunning manipulation". She also said that the decision not to hold the promotion was completely unrelated to the person of Aleksandar Vucic, stressing, nonetheless, that "in these turbulent

times the Library may not be the stage for the realization of anyone's political interests". She concluded that "the position of the Managing Board, employees and her personally was that the Library is not a place for petty politics". However, one may rightfully ask under which criteria the promotion of a book written by a journalist (which would involve other journalists commenting on it, and not political activists) has been qualified as political marketing or "realization of anyone's political interests", regardless of the fact that it is critical of the government. It is clear that the atmosphere of averting government criticism at all cost has taken a deep root in Serbia, to the extent that an ordinary book promotion is not treated as such, but rather as a "petty politics that has no place in a library". Unfortunately, the only conclusion that may be inferred from this is that the space for public debate about matters of public interest in Serbia is being increasingly narrowed, not only in the media, but also in state financed institutions, such as public libraries. Such practice will definitely not bring anything good to Serbian society.

Concerning court jurisprudence, we analyzed the first-instance judgment of the Higher Court in Belgrade in the trial upon the complaint of an MP of the ruling Serbian Progressive Party (SNS) Marijan Risticovic against RDP B92. Risticovic claimed 1.250.000 of damages for injury to his honor and reputation allegedly caused by a story aired by TVB92, which claimed that criminal charges had been pressed against the company owned by Risticovic's wife (the Risticovic Company) for alleged forging of a certificate on the quality of corn that company (dubbed by B92 a "family company" of the Risticovic) offered to the Commodity Reserves Directorate. The Higher Court confirmed in the judgment that the journalist of TVB92 acted in compliance with the standard of due journalist care, since he conveyed all the interviews accurately, including the one by Risticovic himself. The Court also ruled that the information about the quantities of corn that are mentioned, as well as the claims about the forging of the certificate have been checked with the authorities and that the author of the story disposed with sufficient data to release the story. The Court didn't find anything questionable with the claim that Risticovic's company was a family enterprise, since it was created during their marriage and according to the Family Law it constitutes the joint property of the spouses. Risticovic lodged an appeal against the judgment, to be ruled upon by the Appellate Court.

In the Report we also delved into the controversy surrounding the decision of the Regulatory Body for Electronic Media (REM) not to initiate proceedings against TV stations that aired a live broadcast of the ceremonial session of the assembly of the ruling SNS. We emphasize that the case was also reviewed by OSCE, as well as by the Anti-Corruption Council.

Another topic of interest was the procedure for the election of candidates for membership of REM (in the part of the Report about the work of regulatory bodies), as well as the Recommendation about the duration of “forced environment” reality programs, which was adopted by REM and the announced guidelines on the same topic. While we understand the fact that REM has been under serious criticism of the public due to reacting inadequately or failing to react at all to the increased violence, profanity and obscenity contained in certain reality shows, we wanted to point to certain risks and inconsistencies entailed by the model of regulation REM has visibly opted for.

In relation to the announcement by the Prime Minister that the fee for public service broadcasters will amount to 150 dinars, while four billion dinars will be earmarked for PSBs from the budget in 2016 (in view of the fact that the Law on Public Service Broadcasters prescribes that the amount of the fee is to be determined by the managing boards of RTS and RTV and not by the government), we wanted to highlight that this precedent, as well as the announced supplementary financing of core activity from the budget as a lump sum, seriously undermines the system PSB financing as conceived under the still effective Law.

We also dealt with the draft of the new Law on Copyright and Related Rights, which is yet to be tabled to Parliament although the public debate was held as early as back in December 2013, pointing to the fact it was produced in complete opacity. While the public is completely unaware of the changes incorporated in the Draft in the last two years or of the bits that remain from the previous version that was publicly available, there will probably be no new public debate. We believe that the decision to have the Draft sent to Parliament after all, without a new public debate, is a regression in terms of the aspirations to regulate the area of copyright in a manner that would respect the interests of the author and collective organizations on one side, as well as those of the users, on the other.

In the part of the Report about privatization, we analyzed the case of Tanjug. The former flagship state news agency is one of the 37 media outlets that hasn't been privatized in the term provided for by the Law on Public Information and Media. What isn't clear in the case of Tanjug is the reason for which the phase of free distribution of shares to employees was skipped, only to immediately proceed with regulating the legal consequences of the dissolution of that news agency.

The closure of Tanjug led to many dilemmas, particularly in some media reports that failed to make a distinction between the disbanding of the news agency as a media outlet and that of the public company Tanjug, as the publisher of agency services. In our opinion, the statutory

conditions for the disbanding of Tanjug as a media outlet were met. In other words, the agency had to cease its activities *ex lege* by October 31, since it hadn't been privatized. The situation with Tanjug as a public company is different, since it may be dissolved only by deletion from the register of Business Registers Agency. Such requirements are also prescribed by the Decision of the Government regulating the legal consequences of Tanjug's dissolution: in subparagraph 5, that Decision states that the Director of Tanjug shall submit to the Business Registers Agency (after all salaries, severance pay and other proceeds are paid and other obligations are fulfilled) a report for the purpose of deletion of Tanjug from the register. The two deletion dates must not necessarily coincide, but it should be clear that the services of the news agency have ceased to exist as media services. However, by the completion of this Report Tanjug continued to operate as a media publisher, which raises suspicion that the statutory provisions and the above-mentioned decisions haven't been complied with.

Finally, we have analyzed the European Commission's 2015 Progress Report for Serbia. The Report claims that Serbia hasn't achieved any progress in terms of media freedoms. In addition to the issue of poor implementation of the new package of media laws, it also criticizes the lack of regulation of the financing of certain "politically suitable media", as well as "covert and overt political and financial channels" of such financing. The Report explicitly mentions advertising as the most frequently used mechanism of informal pressure on editorial policy. It goes on saying that threats and violence against journalists remain a characteristic of the media scene in Serbia; that such acts remain unpunished for the most part, as well as that journalists are poorly paid and hence vulnerable to political and economic pressure and influence; that no breakthrough has been achieved in shedding light on the cases of the hacked websites in 2014. Finally, the European Commission demands from Serbia to create in 2016 an environment enabling unobstructed freedom of expression, free of disruptions, threats, physical attacks and judicial prosecution of journalists; Serbia is required to finish the media privatization process, strengthen the independence of REM and create an adequate PSB financing model in order to secure their editorial independence.

The mere fact that 15 years after the democratic changes Serbia remains a country with negative trends as to freedom of expression is disappointing to say the least. Although the Prime Minister said, at a press conference held on the occasion of the release of the Progress Report, that the Government does not agree with all the observations, no further explanations were given that would "debunk" the findings. The point is that the problems that were mapped in the Report unquestionably exist. Our November report is partly a testimony of the delay in the implementation of the package of new media laws. The same can be said about unregulated financing. Threats and violence against journalists abound. The worst case would be if the statement of the Prime Minister about "not agreeing with certain objections in the Report" in

reality means that there is not enough political will to address these problems in practice. If Serbia is truly on the path of European integration and reforms, as often stated by the Prime Minister and certain European officials, then the problems in the media sector may become a serious hindrance for these reforms, if not they are not dealt with properly. Without free media and space for public debate about matters of public interest, in the media and in society as a whole, the path ahead will hardly be one of European integration and reforms.

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Association of Independent Electronic Media (ANEM) is a non-governmental and non-profit media association, founded in 1993 and registered in 1997, active in the development and improvement of the freedom of opinion and expression, and of freedom, professionalism and independence of the media in accordance with the highest internationally recognized norms, principles and standards. ANEM is the largest association of electronic media in Serbia gathering more than 100 radio and TV stations across the country, and online media. ANEM's activities contribute to the improvement of the media regulatory framework and the establishment of favorable media environment in the interest of the media sector, as well as to better position, conditions, and the quality of work of its members and other media. ANEM is nowadays recognized by the media sector and responsible institutions as an unavoidable stakeholder in the development of media policy and legislation. It is recognizable in Serbia and abroad by its active advocacy for media reforms, protection and promotion of the freedom of expression and freedom of the media, while ANEM's membership is recognizable by its dedication to the highest professional standards and professional ethics.